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IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF SHOSHONE

STATE OF IDAHO, v.s. Majorjon Kaylor DOB:09/26/1991	Plaintiff, Defendant.	No. CR40-23-970 STATE'S RESPONSE TO DEFENDANT'S MOTION TO DISMISS COUNTS I AND II
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Comes now the state of Idaho, by and through Benjamin J. Allen, the Prosecuting Attorney of Shoshone County, and hereby moves this Court for an Order denying Defendant's Motion to Dismiss Counts I and II as set forth below.

FACTS

On June 18, 2023, at approximately 7:20 P.M., a 911 call came into Shoshone County Dispatch alleging shots fired around the area of 515 Brown Avenue in Kellogg, Idaho. (P.C. Aff., p. 1). Shortly thereafter, another call came into 911, where the Defendant in this case, Majorjon Kaylor, told the dispatcher, "This is Majorjon Kaylor. I just went downstairs and executed a fucking pedophile and his family." The dispatcher clarifies the Defendant's statements by asking, "You shot somebody?" To this question the Defendant responds by saying

“I shot four people – they’re all dead.” *Shoshone County Dispatch Call*,

001_POS_1_PHONE_2023_06_18_19_19_00_by_Start_Time_asc 00:25-00:44.

Sergeant Jared Bilaski of the Shoshone County Sheriff’s Office responded to the area of 515 Brown Ave. at approximately 7:24 P.M., an address consisting of a two-story apartment building with a lower-level “Apartment A” and an upper-level “Apartment B.” *Bilaski POV NOR_PE1239_SO1206_0182923182346_CAA_N* at 00:00-00:18. Upon arrival, Sgt. Bilaski observes two individuals he would later identify as Majorjon Kaylor and Hunter Jones, standing in a driveway adjacent to address of dispatch. P.C. Aff. at 1, *see also, Bilaski POV NOR_PE1239_SO1206_0182923182346_CAA_N* at 00:18-00:29. Clearly not recognizing the magnitude of the scene at which he just arrived, Sgt. Bilaski begins his contact with the individuals at the location by simply asking that they come toward him to talk. *Id.* As the parties are walking toward one another, the following exchange occurs:

Sgt. Bilaski: “What’s going on?”
Majorjon Kaylor: “I just shot all four of my neighbors.”
Sgt. Bilaski: “You what?”
Majorjon Kaylor: “I shot all four of my neighbors.”
Sgt. Bilaski: “Okay – do...do you have the firearm on you?”
Majorjon Kaylor: “No. It’s put away.”
Sgt. Bilaski: “Okay.”
Majorjon Kaylor: “I already called the cops.”
Sgt. Bilaski: “Put...drop down on the ground now.”
Majorjon Kaylor: “Okay my shoulder’s broken.”
Sgt. Bilaski: “Okay. Drop down on the ground.”
Majorjon Kaylor: “That’s fine.”
Sgt. Bilaski: “You shot four people?”
Majorjon Kaylor: “Yep.”
Sgt. Bilaski: “Okay.”
Majorjon Kaylor: “The neighbor’s a pedophile, I’ve called the cops twice, they’ve refused to do anything.”
Sgt. Bilaski: [interrupting] “Okay. Okay. Do not move.”
Majorjon Kaylor: “Okay.”

Sgt. Bilaski: [turning to Hunter Jones] “I’m going to pat you down for weapons.”
Hunter Jones: “Oh yeah yeah yeah.”
Majorjon Kaylor: “She’s got nothin’ to do with this. She’s just a neighbor.”

Bilaski POV NOR_PE1239_SO1206_0182923182346_CAA_N at 00:29-00:53. Following this exchange, the Defendant was subsequently placed into handcuffs and sat in the back of Sgt. Bilaski’s patrol vehicle while the officer made prerequisite inquiries needed to enter the home at 515 Brown Street in order to search for victims and possible signs of life. *See Id at 00:53-02:20*. The protective sweep of the residence and the investigation which followed would reveal that the four victims, Kenneth Guardipee, Kenna Guardipee, Devin Smith, and A.S. (juvenile), were all in fact deceased. P.C. Aff. at 2.

A few days prior to the incident, the Defendant’s wife, Kaylie Kaylor, had publicly revealed an incident involving one of their neighbors, eighteen-year-old Devin Smith. Specifically, Kaylie shared on Facebook that she believed Devin had exposed himself and masturbated in front of her juvenile children. P.C. Aff. at 1-2. Officer William Eddy of the Kellogg Police Department responded to Kaylie’s 911 call on June 12, 2023. *See Eddy Rpt. 03-2023-00137*. While speaking with Ofc. Eddy on this date, the Defendant said that the only reason nothing happened *that evening* was because he just had shoulder surgery, but he will “handle it” and “somebody’s going to be hurt” if something happens again. *Eddy POV 2023_0613_215610_004* at 03:36-03:52; *Eddy POV 2023_221734_007* at 01:04-01:17.

Following law enforcement’s initial response to the scene on June 18, 2023, the Idaho State Police were requested to assume control of the investigation. At approximately 9:30 P.M., ISP Detective Justin Klitch arrived on scene and took investigatory lead for the incident. Upon conducting his walk-through of the scene, he discovered the body of Devin Smith’s mother,

Kenna Guardipee lying face up outside of the residence, directly adjacent to the rear exterior concrete steps to Apartment A, with an apparent gunshot wound to the right temple area that appeared to have been fired at close proximity. P.C. Aff. at 2. On the opposite side of these steps was Kenneth Guardipee's body, with a similar visible gunshot wound to the right temple. *Id.* This set of stairs is not located between the apartments occupied by the victim's family and the Defendant's family, but rather is directly attached to Apartment A and contains a door entering that apartment. Inside Apartment A, Det. Klitch located the body of A.S. face down between the kitchen and living room with a bullet wound to the temple, similar to those visible on both Kenna and Kenneth. *Id.* Finally, in a bedroom at the rear of the apartment, Det. Klitch located the body of Devin Smith, citing multiple gunshot wounds which were readily apparent. *Id.*

The medical examination later performed with clothing removed from the victim's bodies would reveal that each victim had been shot multiple times. *See Sean P. Ricciardo* ME Report Autopsy No. 230619-350. Examiner Sean Ricciardo would describe the close range of the gunshot wound to Kenna's head as "likely contact (apparent muzzle imprint)." *See Sean P. Ricciardo* ME Report Autopsy No. 230619-350 at p. 2. The other gunshot wound to Kenna was found in the upper right chest at a range found to be indeterminate. *Id.* The bullet which was believed to have gone through the skull of Kenna was found in the ground underneath her head. *See ISP Supplement 19*, p. 4 Subsection 7.f. Testimony anticipated to be elicited at trial will show that this bullet's placement likely indicates she was already on the ground when the close range shot to her head was fired.

When examining Kenneth Guardipee, Examiner Ricciardo located a gunshot wound in his upper chest area with an indeterminate range. *See Sean P. Ricciardo* ME Report Autopsy No. 230619-364 at p. 2. Then, similar to Kenna, Examiner Ricciardo noted a gunshot wound to

Kenneth's head and described this wound as "contact (soot and possible muzzle imprint)." *Id.* When examining the scene, detectives found a bullet in the ground in close proximity to Kenneth's head. *See ISP Supplement 19*, p. 4 Subsection 7.a. Testimony anticipated to be elicited at trial will show that this bullet's placement indicates that he too was likely already on the ground when this close range shot to the head was fired.

Det. Klitch and ISP Sergeant Jess Stennett talked briefly with the Defendant on the night of the incident. To capture this dialogue, Sgt. Stennett utilized the agency issued body-worn camera assigned to Shoshone County Sheriff's Office Captain Jeff Lee. In the course of questioning, the Defendant told the detectives that during the encounter which immediately preceded the murders, "They were saying there's nothing you can do about it, he [Devin] can do whatever he wants," and went on to recall, "they were smugger than fuck. Like I - there is no way to politely say like – there was no remorse, there was no 'we're sorry' or you know 'yeah it's a problem we're working on it.' Nothing." *See* Sgt. Stennet POV NOR_PE1204_SO1203_06182023215539_CAA_N at 11:13-11:34. Before concluding the interview, the Defendant then tells Det. Klitch, "it consists of them [Kenna and Kenneth Guardipee] pretty much telling me you can't do anything about it and that's that – so I did something about it." *Id.* at 14:02-14:16.

Following the initial investigation, ISP detectives had an opportunity to interview co-workers of the Defendant to identify if any statements of concern had been made in the days leading up to the incident. These interviews revealed that during the Defendant's ride to work on the morning of the murders, the Defendant told his boss, Matthew Williams, a statement that implicated the possibility of him going to jail. *See ISP Supplement 45*, p. 2.

As part of ISP's investigative follow up, surveillance video from a nearby business was obtained, showing the outside area of 515 Brown Avenue. The Defendant can be seen on these videos returning home from work and spending extensive time walking around the residence, walking near the business where Kenna worked, and ducking behind a trailer that was parked outside of the residence while appearing to view the shared backyard space and rear door of Apartment A. This behavior, which when viewed together with other evidence in this case, could reasonably be interpreted by a jury as casing out the location of the murders. *See Mtn. Valley Cascadia Surv.* CH05-20230618-175510-181815-101000000000 at 17:03-17:33; 18:38-1913; 22:44-23:05; CH05-20230618-18181 5-184120-101000000000 at 00:00-00:19; 01:50-02:45; 03:44-04:39; 05:49-06:36; 08:45-09:32; 22:42-23:06; CH05-20230618-184120-190426-101000000000 at 00:00-09:00; 10:27-10:32; 14:52-19:45; CH05-20230618-190426-192734-101000000000 at 05:25-07:00.

On June 20, 2023, Mr. Kaylor was charged by Criminal Complaint with four counts of First-Degree Murder and one count of Burglary. On August 15, 2023, the Defendant signed and filed a written waiver of preliminary hearing to the above-mentioned charges. The Court waived the preliminary hearing and bound the Defendant over to district court. On August 23, the State filed its Information which charged the Defendant as follows:

COUNT ONE

That the defendant, Majorjon Kaylor, on or about the 18th day of June, 2023 in the County of Shoshone, State of Idaho, did willfully, deliberately and with malice aforethought, unlawfully kill the person of Kenna L. Guardipee, a human being, to-wit: by shooting her which resulted in her death, and which was premeditated and/or to execute vengeance.

COUNT TWO

That the defendant, Majorjon Kaylor, on or about the 18th day of June, 2023 in the County of Shoshone, State of Idaho, did willfully, deliberately and with malice

aforethought, unlawfully kill the person of Kenneth R. Guardipee, a human being, to-wit: by shooting him which resulted in his death, and which was premeditated and/or to execute vengeance.

COUNT THREE

That the defendant, Majorjon Kaylor, on or about the 18th day of June, 2023 in the County of Shoshone, State of Idaho, did willfully, deliberately and with malice aforethought, unlawfully kill the person of A.S., a human being, to-wit: by shooting him which resulted in his death, and which was premeditated, to execute vengeance, and/or committed in the perpetration of burglary.

COUNT FOUR

That the defendant, Majorjon Kaylor, on or about the 18th day of June, 2023 in the County of Shoshone, State of Idaho, did willfully, deliberately and with malice aforethought, unlawfully kill the person of Devin R. Smith, a human being, to-wit: by shooting him which resulted in his death, and which was premeditated, to execute vengeance, and/or committed in the perpetration of burglary.

COUNT FIVE

That the defendant, Majorjon Kaylor, on or about the 18th day of June, 2023 in the County of Shoshone, State of Idaho, did enter into a house, room, and/or apartment with the intent to commit the crime of murder.

At his arraignment, the Defendant entered pleas of Not Guilty to all charges, and this matter was scheduled for trial in January 2024. On October 11, 2023, Counsel for the Defendant filed a Motion to Dismiss Counts I and II of the Information, the charges relating to the murders of Kenna and Kenneth Guardipee.

ISSUES PRESENTED

The Issue presented to this court by the defense is whether the State has provided sufficient evidence to support the crime of Murder in the First Degree as it relates to Counts I and II of the Information filed in the above-titled matter.

ARGUMENT

- I. **The interests of justice and the effective administration of the Court's business would not be served by dismissing any of the charges in this case.**

The evidentiary threshold for holding a defendant to answer for the charges presented by the state can be found in Idaho Criminal Rule 5.1(b). This rule states in pertinent part, “If from the evidence the magistrate determines that a public offense has been committed and that there is probable or sufficient cause to believe that the defendant committed such offense, the magistrate shall forthwith hold the defendant to answer in the district court.” I.C.R. 5.1(b). *See also, State v. Porter*, 142 Idaho 371, 373, 128 P.3d 908, 910 (2005). In light of the facts outlined herein, and likely to be presented to a jury at trial, there exists substantial evidence to support the charges brought by the State.

Next, Idaho Criminal Rule 48 allows the court to dismiss a criminal action on its own “for any reason if the court concludes that dismissal will serve the ends of justice and the effective administration of the court’s business.” I.C.R. 48(a)(2). However, this rule should be viewed through a narrow lens as it pertains to the weight of evidence presented as the Idaho Supreme Court has stated, “[W]here the evidence is not in law insufficient, the matter is exclusively within the province of the trier of fact to determine.” *State v. Taylor*, 168 Idaho 219, 224, 481 P.3d 767, 772 (Ct. App. 2021) (citing *State v. Babb*, 125 Idaho 934, 947, 877 P.2d 905, 918 (1994)). To this point, defense purports to argue that the trial would not be as lengthy or costly to society should the court dismiss Counts I and II. Such a position has no basis in fact or logic as the State’s case consists of largely the same evidentiary presentation for each of Counts I-V in this case.

A. The Defendant’s killing of Kenna and Kenneth Guardipee were willful, deliberate, and premeditated.

To attack the State's case, the Defense first asserts that the State has not disclosed sufficient evidence to demonstrate First Degree Murder as to Counts I and II as the Defense does not believe the State can prove those offenses were committed in either a premeditated fashion or to execute vengeance.

A prerequisite for any charge of Murder is the existence of malice aforethought. *See* I.C. § 18-4001. "The words 'malice,' and 'maliciously,' import a wish to vex, annoy, or injure another person, or an intent to do a wrongful act, established by proof or presumption of law." I.C. 18-101(4). [M]alice may be expressed or implied. I.C. § 18-4002. It is express when there is manifested and deliberate intention unlawfully to take away the life of a fellow creature. *Id.* It is implied when no considerable provocation appears, or when the circumstances attending the killing show an abandoned and malignant heart. *Id.* Our Supreme Court has held on several occasions that where a defendant uses a deadly weapon against the person of another in a deadly and dangerous manner, the element of malice may be presumed. *State v. Wolfe*, 107 Idaho 676 (1984), *see also*, *State v. Warden*, 100 Idaho 21, 592 P.2d 836 (1979), *State v. Gomez*, 94 Idaho 323, 487 P.2d 686 (1971), *State v. Rodriguez*, 106 Idaho 30, 674 P.2d 1029 (Ct.App.1983). The mental state constituting malice aforethought does not necessarily require any ill will or hatred of the person killed. *Porter*, 142 Idaho at 375, 128 P.3d at 912 (2005). Furthermore, "[w]hen it is shown that a killing resulted from the intentional doing of an act with express or implied malice, no other mental state need be shown to establish the mental state of malice aforethought." *Id.*

The facts of the State's case demonstrate voluminous support that the killings of Kenna and Kenneth Guardipee were the result of an intentional doing with malice. The Defendant utilized a deadly weapon in the commission of his acts, used said weapon in a deadly manner, and engaged in a course of conduct which was methodical, intentional, and willful, taking the

lives of four separate individuals in successive fashion – one after another, with time likely elapsing between each.

To rise to the level of First Degree Murder in Idaho, our courts and legislature have required that certain elements beyond the unlawful killing with malice be met. As charged in this case, the State has alleged that the Defendant’s taking of Kenna and Kenneth Guardipee’s lives was done with either premeditation or to execute vengeance, either of which satisfies this additional element. To prove this, the State may proffer at trial either direct or circumstantial evidence. In *State v. Sheahan*, 139 Idaho 267 , 286, 77 P.3d 956, 975 (2003), the Court opined, “Direct evidence of a deliberate and premeditated purpose to kill is not required; such a purpose may be inferred from the facts and circumstances of the killing.” (citing *Wolfe*, 107 Idaho at 679, 691 P.2d at 1294 (Ct. App. 1984)). Our Court has taken this notion and expounded that “[t]he elements of deliberation and premeditation may be inferred from the proof of such facts and circumstances as will furnish a reasonable foundation for such inference.” *State v. Taylor*, 168 Idaho 219, 224, 481 P.3d 767, 772 (2021) (citing *State v. Babb*, 125 Idaho 934, 947, 877 P.2d 905, 918 (1994)). When considering the amount of time required to break the threshold for premeditation, Idaho’s pattern jury instructions makes clear that, “There does not have to be *any* appreciable period of time during which the decision to kill was considered, as long as it was reflected upon before the decision was made. A mere unconsidered and rash impulse, even though it includes an intent to kill, is not premeditation.” (*emphasis added*) I.C.J.I. 704A First Degree Murder – Malice Aforethought.¹ In analyzing the facts of this case related to the time

¹ “The jury instruction provided for first degree murder is consistent with the Idaho Criminal Jury Instruction, which are presumptively correct statements of the law.” *State v. Bahr*, 163 Idaho 433, 436, 414 P.3d 707, 710 (Ct. App. 2018) (citations omitted).

elapsed, it is difficult to conjure any view of the facts which would constitute a mere unconsidered or rash impulse.

To delve further into additional considerations which a Court can rely on for premeditation, we see that evidence of a defendant's "pre-existing dislike for the victim" is a factor which may be considered to present a "basis for the inference that appellant had planned to inflict injuries on [the victim]." *State v. Aragon*, 107 Idaho 358, 366-67, 690 P.2d 293, 301-02 (1984) *see also*, *State v. Major*, 105 Idaho 4, 665 P.2d 703 (1983). In *Aragon*, the Idaho Supreme Court found that "[T]he fact that there was more than one such blow supports a finding of a preconceived intent to kill." *Aragon*, 107 Idaho at 367, 690 P.2d at 302 (1984). Additionally, both the Idaho State and United States Supreme Courts have analyzed premeditation in various cases and found that willful, deliberate, and premeditated killing with malice aforethought were present in an broad array of circumstances. For example, in *State v. Snowden*, 79 Idaho 266 (1957), the court concluded that "the trial court had no other alternative than to find the defendant guilty of [first degree murder] in view of the defendant's acts in deliberately opening up a pocket knife, next cutting the victim's throat, and then hacking and cutting until he killed [the victim] and expended himself." In *Carey v. State*, 91 Idaho 706 (1967), the court found the deliberate act and premeditation in defendant's raising of a rifle and firing multiple shots in rapid succession constituted premeditation. In *U.S. v. Frady*, 456 US 152 (1982), the Court found that driving by victim's house on two occasions the day of the killing and asking the victim's brother if a man could be killed by a blow to the chest demonstrated a plan and positive design to kill. Finally, in *State v. Bahr*, 163 Idaho 433 (Ct. App. 2018), the Court upheld a conviction for first degree murder finding that the defendant's "actions were evidence of premeditation including, but not limited to, his taking a gun from the nightstand of his mother's boyfriend prior to meeting

his ex-girlfriend and [the victim]; stealing a bandana to cover his face for the meeting; and hiding in the bushes while he waited for them to arrive.”

Indicia of each of these examples of premeditation can be found in the facts of the case at present before this Court. The style and manner in which the Defendant carried out his acts of killing are fully enveloped in premeditation. Here, the Defendant foreshadows his actions during contacts with law enforcement in the days preceding this event. Statements made by the Defendant to a co-worker on the morning of the incident highlight the Defendant’s contemplation of the consequences of his actions. The Defendant’s retrieval of a firearm prior to confronting the victims portray his readiness to act. The Defendant’s casing out of the premises which is captured on surveillance cameras, spending roughly an hour walking the perimeter of the residence and hiding behind objects while looking in the direction of the victims’ back door, can all be viewed by a jury as indicative of his thought processes. Lastly, the type and manner of the gunshot wounds identified on the bodies of the victims during the medical exam paint an execution-style picture of the events as they unfolded at the Guardipee residence. Any of these factors, singly or in conjunction, would satisfy the element of premeditation required by the Courts and statutes.

B. The Defendant’s killing of Kenna and Kenneth Guardipee was done to execute vengeance.

“The notion that responsibility will follow the commission of harm has existed from earliest time.” 12 LACIVL § 1:1 Theory of Obligations. “Sometimes vengeance by the injured person is the rule; sometimes vengeance belonged to the family or clan of the injured member.” *Id.* Although Black’s (law dictionary) does not provide a definition for vengeance, Merriam Webster defines vengeance as “punishment inflicted in retaliation for an injury or offense.”

Online Merriam-Webster Dictionary - <https://www.merriam-webster.com/dictionary/vengeance> (last visited October 31, 2023). The Idaho State Supreme Court equates vengeance to revenge or “the act or an instance of responding to an injury with an injury.” *Devlin v. Ennis*, 77 Idaho 342, 292 P.2d 469 (1956).

In their briefing to this Court, Defense cites a case from Tennessee, and while it is not controlling in this jurisdiction, it could be persuasive in light of its similarities to the facts of this case. In *State v. Rimmer*, 25 S.W.3d 12 (Tenn. 2008), a defendant was accused by a victim of aggravated assault and rape, placing him in prison. During his time in incarceration, the defendant confided in other inmates that he would kill her upon his release, blaming her for putting him in there and stating the victim owed him money. The court found that the “threats the Defendant had made suggest that the murder was a premeditated act of vengeance.” *Id.* at 35.

The Defendant reiterates to multiple law enforcement officers that he “executed a pedophile and his family” and indicating he believed nothing had or was going to happen to Devin Smith when the Defendant’s family reported an incident four days prior. When he did make contact with the victims, he describes them as “smug” and portrays a frustration with what he interpreted to be a disregard for his concerns. Eventually, the Defendant relays he couldn’t take it any longer and in his own words, “did something about it.” This killing arguably would not have occurred but for the Defendant’s perceived lack of a response by those responsible for the control of the Guardipee home. Even after the consummation of the crimes, the Defendant is markedly calm, repeating to both dispatch and Sgt. Bilaski that he murdered all of his neighbors, confidently stating “they’re all dead.” The Defendant killed Kenna and Kenneth, along with Devin Smith and A.S., carrying out each of these murders in a similar successive fashion, implicating a plan to execute vengeance which would level his perceived transgressions.

CONCLUSION

The Defendant wishes for the court to unilaterally decide the evidence of this case and dismiss Counts I and II to serve the ends of justice or the effective administration of the court's business. The ends of justice do not support dismissing the willful, deliberate, and premeditated killing of Kenna and Kenneth Guardipee, nor is it an effective administration for the court to relieve the Defendant of his obligation to answer to the charges for which the State has brought. For each of the foregoing reasons and the voluminous evidence demonstrating both premeditation and/or vengeance that is likely to be presented to a jury if this case were to proceed to trial, the State respectfully requests this court to deny the Defendant's motion to dismiss Counts I and II, and enable this case to proceed as charged.

Dated this 2nd day of November, 2023.


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PROSECUTING ATTORNEY

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E-Service

Chris Schwartz
Attorney for Defendant

I certify that a copy of the foregoing document was provided to the following party in the following manner on this 2nd day of Nov., 2023:

CLERK'S CERTIFICATE